

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE
PIDDE, JAMES CICHANOFSKY,
ROGER MILLER, and GEORGE
NOWLIN,

Plaintiffs,

v.

CNH INDUSTRIAL N.V. and CNH
INDUSTRIAL AMERICA LLC,

Defendants.

Case 2:04-cv-70592-PJD-PJK

Hon. Patrick J. Duggan, U.S.D.J.

Hon. Paul J. Komives, U.S. Mag. J.

NOTICE OF SUPPLEMENTAL AUTHORITY

CNH Industrial N.V. and CNH Industrial America LLC hereby provide notice of the recent decision of the Supreme Court of the United States in *M&G Polymers USA, LLC v. Tackett*, decided January 26, 2015. The Supreme Court reversed the Sixth Circuit's decision in *Tackett*, and after reviewing the inferences regarding retirement health care benefits set forth in *International Union, UAW v. Yard-Man, Inc.*, 716 F.2d 1476 (6th Cir. 1983), and its progeny, ruled that those inferences "conflict with ordinary principles of contract law" and are improper. No. 13-1010, 2015 WL 303218, at *6 (U.S. Jan. 26, 2015) (attached).

Although the *Tackett* decision does not alter the remand instructions by the Sixth Circuit in this case for this Court to consider the plan changes proposed by

CNH, *Tackett* does undermine the earlier conclusion of the Sixth Circuit in this case that Plaintiffs' health benefits are vested. CNH expressly reserves its position that the benefits are *not* vested, but will proceed with the hearing on February 3, 2015, addressing the proposed changes to Plaintiffs' benefits. At the appropriate time, CNH expects to raise the issue of whether the contracts in this case provide vested benefits under *Tackett*.

Dated: January 29, 2015

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2015, I electronically filed the foregoing **Notice of Supplemental Authority** with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants.

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